IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.337/2007

Shekhar Prabhudessai,
Superintendent of Police (South)
Public Ind formation Officer,
Margao, Goa. ..... Petitioner.

V/s.

(1) Goa State Information Commission
at Panaji constituted with two members,

(1a) Shri A. Venkataratnam,

(1b) Shri G. G. Kambli,
having their Office at Ground Floor,
Sharama Shakti Bhavan,
Patto, Plaza, Panaji, Goa

(2) Shri Joao C. Pereira,
H.No.40 Acsona, Uttorda,
Majorda, Salcete, Goa. ..... Respondents.

Mrs. Leena Kamat Dharwadkar, Addl. Govt. Advocate for the petitioner.

Mr. Valmiki Menezes, Advocate for the respondent No.2.

CORAM : R.S. MOHITE, J.

DATE : JULY 20, 2007.

ORAL JUDGMENT :

Heard both sides. Rule. By consent, rule made returnable

forthwith.

2. An issue which is raised in this petition is as to whether an information contained in a case diary maintained under Section 172 of the Code of Criminal Procedure can be obtained by making an application under the provisions of Right to Information Act, 2005. I find from the facts of this particular case that the respondent No.2 herein who is one of the accused, made an application on 13.10.2006 to the petitioner seeking inspection of station diary of Verna Police Station of certain dates. By his order dated 27.10.06, the Public Information Officer rejected the request of the respondent No.2 on the ground that the station diary would be covered by an exemption contained under Section 8(1)(g) of the Right to Information Act. The respondent No.2 then filed an appeal before the appellate authority which allowed the appeal by an Order dated 6.12.2006 with an observation that the station diary is an important document of the police station wherein confidential information is recorded and it cannot be given for inspection to the public since it is not a public document. He, however, stated that the relevant portions and relevant entries pertaining to the appellant, (respondent No.2 herein) can be photo copied and furnished to him.. He, therefore, directed that certain entries which pertain to the appellant to be furnished to him. It appears that thereafter, the said appellate authority, i.e. the Dy.

Inspector General of Police, passed a corrigendum on 15.12.2006 rejecting the appeal in toto. Admittedly, this corrigendum dismissing the appeal, was issued after the order dated 6.12.06 which partly allowed the appeal. Further the corrigendum order dated 15.12.06 was passed without hearing the appellant. In the circumstances, the appellant preferred a second appeal to the Goa State Information Commission being Appeal No.95/2006/POL. The same has been allowed by the Goa State Information Commission by its impugned Order dated 16.4.07.

3. On perusing the impugned order of the Commission, I , however, find that the order is principally based upon the procedural irregularities committed by the first appellate Authority. It does not specifically deal with the point as to whether the entries in a station diary are covered by exception under Sections 8(1)(g) and 8(1)(h) of the Right to Information Act.

4. Both the Counsel agree that since the procedure followed by the first appellate Authority was irregular, the orders of the first appellate authority dated 6.12.06 and 15.12.06 as well as the order passed by the Goa State Information Commission dated 16.4.07 be quashed and set aside and the matter be remanded to the first appellate authority i.e. the Dy. Inspector General of Polcie to pass a detailed and reasoned order, after hearing both

sides.

5. In the circumstances, Orders of the first appellate Authority dated 6.12.06 and 15.12.06 as well as the order passed by the Goa State Information Commission dated 16.4.07 are quashed and set aside and the matter is remanded to the first appellate authority i.e. the Dy. Inspector General of Police, to take fresh decision in accordance with law. He shall hear both sides afresh and pass a fresh order. Rule is made absolute.

R.S. MOHITE, J.

ssm.